

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 861 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

STATE OF GUJARAT

Versus

M/S DECORA CERAMIC PVT.

Appearance:

Shri M.A. Bukhari, Additional Public Prosecutor,
for the Appellant-State

Shri A.R. Thakkar, Advocate, for the
Respondents-Accused

CORAM: A.N. DIVECHA, J.

Date: 24/10/1996

ORAL JUDGMENT

The judgment and order of acquittal passed by the learned Judicial Magistrate (First Class) at Chotila on 30th June 1992 in Criminal Case No. 548 of 1989 is under challenge in this appeal under sec. 378 of the Code of Criminal Procedure 1973 (the Code for brief) after

obtaining leave of this Court. By his judgment and order, the learned trial Magistrate acquitted the respondents herein of the offence punishable under sec. 30(1)(c) read with sec. 8(3) of the Apprentice Act, 1961 (the Act for brief).

2. The facts giving rise to this appeal move in a narrow compass. The complainant is the State Apprenticeship Advisor. He appears to have directed the respondents herein to appoint six apprentices for the term from 1st February 1989 to 15th April 1989. It appears that the respondents herein could appoint only two apprentices. Thereupon the complainant filed one complaint on 25th July 1989 charging the respondents herein with the offence punishable under sec. 30(1)(c) read with sec. 8(3) of the Act. Its copy is at Ex. 1 on the record of the case. It came to be registered as Criminal Case No. 548 of 1989 in the court of the Judicial Magistrate (First Class) at Chotila. It appears that the plea of the accused regarding the offence was recorded on 12th January 1990. Neither accused pleaded guilty to the charge. Thereupon both of them were tried. After recording evidence and after recording the further statement of each accused under sec. 313 of the Code and after hearing the parties, by his judgment and order passed on 30th June 1992 in the aforesaid criminal case, the learned trial Magistrate acquitted both of them. The aggrieved State has thereupon approached this Court by means of this appeal under sec. 378 of the Code after obtaining leave of this Court.

3. The learned trial Magistrate has found that the respondents tried their best to fill up the posts of apprentices as directed by the complainant but except two apprentices no one joined as an apprentice as they found the stipend payable to them to be quite low. This finding recorded by the learned trial Magistrate on the basis of the material on record. It is difficult to come to the conclusion that it is perverse in any manner.

4. It may be noted that the respondents herein brought on record two advertisements appearing in one daily, named, Fulchab, published from Rajkot and another daily, named, Jansatta, also published from Rajkot 5th February 1989 or thereabout showing insertion of their advertisements inviting applications for filling the posts of apprentices. Their copies are at Exs. 22 and 23 on the record of the case. It appears that the prosecution examined the Assistant Apprentice Advisor at Ex. 20 on the record of the case. He has admitted in his cross-examination that at the time of his inspection

of the factory of respondent No.1 herein he was attempted to be shown the list of apprentices received from the Employment Exchange at Surendranagar. He has further admitted in his cross-examination that it was attempted to be shown to him that respondent No.1 made all attempts to fill in the posts of apprentices but he did not verify all the documents in support of such representation. It is the case of the prosecution that the witness at Ex. 20 went to the office of respondent No. 1 to inspect its records regarding breach of sec. 8(3) of the Act. It was his duty to examine the documents shown to him in support of the say by and on behalf of respondent No. 1 how and why the posts of apprentices could not be filled in. It would be a different thing if documents did not justify the say of the concerned officer of respondent No.1 However, it would not be justifiable on the part of the witness at Ex. 20 not to verify the documents in support of the say by and on behalf of respondent No. 1.

5. The learned trial Magistrate has, on the basis of the material on record, come to the conclusion that the respondents herein have made all attempts to fill in the posts of apprentices but they could fill in only two posts as the other candidates selected by them after interview were not agreeable to work as apprentices as they found the stipend to be quite low. It is not the case of the prosecution that the stipend offered to those candidates was below the standard prescribed under the Act. In that view of the matter, there is no hesitation in coming to the conclusion that the prosecution failed to bring the guilt home to the respondents as the accused at trial. The judgment and order of acquittal passed by the learned trial Magistrate under challenge in this appeal therefore calls for no interference by this Court in this appeal.

6. In the result, this appeal fails. It is dismissed.
